

263 CMR 6.00: GROUNDS FOR DISCIPLINARY ACTION

Section

- 6.01: Investigation of Complaints
- 6.02: Grounds for Disciplinary Action
- 6.03: Suspension Prior to Hearing

6.01: Investigation of Complaints

(1) The Board shall investigate any and all complaints which allege that a physician assistant who holds a certificate of registration or temporary practice certificate issued by the Board has violated any provision of M.G.L. c. 112, §§ 9C through 9K, any rule or regulation of the Board, or any other state or federal law or regulation pertaining to the professional conduct or activities of physician assistants; or has otherwise engaged in improper or unethical professional conduct.

(2) No person who files a complaint, reports or provides information to the Board in connection with the investigation of a complaint, or otherwise assists the Board in discharging its duties and functions, shall be held liable in any cause of action arising out of these activities, as long as the person making the complaint or providing such information or assistance does so in good faith and without malice.

(3) All complaints, reports, records, documents or other information received or kept by the Board in connection with any investigation conducted by the Board pursuant to 263 CMR 6.01(3) shall remain confidential until such time as the Board has disposed of the matter by dismissing the complaint, issuing an Order to Show Cause, or taking other final action on said complaint. Notwithstanding the foregoing:

- (a) Certain records or information received or kept by the Board in connection with any investigation conducted pursuant to this section shall remain confidential even after final action on the complaint has been taken by the Board, to the extent that disclosure of such information is restricted by other applicable state or federal law; and
- (b) The requirement that investigative records or information shall be kept confidential shall not apply to requests for such information received from the person under investigation or the complainant.

(4) Pursuant to M.G.L. c. 112, § 9H, the Board will review written requests for investigative records or other confidential information from, and may furnish such information in accordance with the Fair Information Practices Act (M.G.L. c. 66A) to, particular federal, state and local regulatory and law enforcement agencies, including but not limited to:

- (a) The Massachusetts Executive Office of Consumer Affairs;
- (b) The Massachusetts Department of the Attorney General;
- (c) The Office of the District Attorney for any county in Massachusetts;
- (d) The Massachusetts State Police;
- (e) Any local or municipal police department in Massachusetts;
- (f) The Massachusetts Department of Public Health;
- (g) The Massachusetts Department of Public Welfare;
- (h) The Office of the United States Attorney;
- (i) The United States Department of Justice;
- (j) The Federal Bureau of Investigation;
- (k) The United States Drug Enforcement Administration;
- (l) The Office of the Inspector General of the United States Department of Health and Human Services;
- (m) The National Disciplinary Information System of the National Clearinghouse on Licensure, Enforcement and Regulations; and
- (n) An agency in any other state which is responsible for the registration, certification or licensure of physician assistants.

All recipients of such confidential information designated pursuant to 263 CMR 6.00 shall preserve the confidentiality of such data and make it available to the data subject to the extent required by M.G.L. c. 66A.

6.02: Grounds for Disciplinary Action

The Board may, by majority vote after a hearing conducted in accordance with M.G.L. c. 30A and 801 CMR 1.00 *et. seq.*, take disciplinary action against any physician assistant who holds a certificate of registration or temporary practice certificate issued pursuant to M.G.L. c. 112, §§ 9C through 9K and 263 CMR 6.00. Grounds for such disciplinary action shall include, but shall not be limited to:

- (a) Engaging in, authorizing, or aiding or abetting fraud, deceit, misrepresentation of material facts, the provision of false or forged evidence, or bribery in connection with any application for a certificate of registration or temporary practice certificate;
- (b) Violating any provision of the laws of the Commonwealth relating to the authorized practice of physician assistants or any rule or regulation adopted thereunder;
- (c) Engaging in gross misconduct in the practice of his or her profession as a physician assistant;
- (d) Engaging in practice which is fraudulent or beyond the authorized scope of practice for a physician assistant;
- (e) Practicing with gross incompetence or gross negligence on a particular occasion, or with negligence on repeated occasions;
- (f) Practicing while his or her ability to practice is impaired by alcohol, drugs, physical disability or mental illness;
- (g) Being habitually intoxicated by, or engaging in the current, unlawful use of, alcohol, narcotics, barbiturates, amphetamines, hallucinogens or other drugs having similar effects;
- (h) Knowingly permitting, or aiding or abetting, an unlicensed person to perform activities which require a license for purposes of fraud, deception or personal gain, excluding activities which are permissible under any provision of the laws of the Commonwealth relating to the training of medical providers in authorized health care institutions and facilities;
- (i) Having been convicted of any criminal offense which reasonably calls into question his or her fitness or ability to practice as a physician assistant; or
- (j) Violating any provision of M.G.L. c. 112, §§ 9C through 9K or any rule or regulation of the Board.

For purposes of 263 CMR 6.02, the term "disciplinary action" shall include, but shall not be limited to: denial, revocation or suspension of a certificate of registration or temporary practice certificate; refusal to renew a certificate of registration or temporary practice certificate; issuance of a letter of censure; issuance of a written reprimand; or placement of a licensee on probation.

6.03: Suspension Prior to Hearing

If, based upon affidavits or other documentary evidence, the Board determines that a licensee is an immediate or serious threat to the public health, safety, or welfare, the Board may suspend or refuse to renew a license pending a final hearing on the merits of the allegations regarding the licensee. A hearing limited to the determination of the necessity of the summary action shall be afforded the licensee within seven days of the Board's action.

Above effective 3/10/06

REGULATORY AUTHORITY

263 CMR 6.00: M.G.L. c. 13, § 10B; c. 112, §§ 9F and 9H.